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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re Chiquita Canyon Landfill
Litigation

Master File No. 2:23-CV-08380-MEMF-MAR

CONSOLIDATED ACTION

This document relates to:

FIRST AMENDED COMPLAINT

2:24-CV-08342 (*Alim*)

INTRODUCTION

1
2 1. Plaintiffs bring this action against Defendants Chiquita Canyon, LLC,
3 Chiquita Canyon, Inc., and Waste Connection US, Inc. Defendants operate the
4 Chiquita Canyon Landfill (“Landfill”), a 639-acre municipal solid waste landfill,
5 located in the northern section of Los Angeles County. The Landfill has served Los
6 Angeles County for more than five decades. Several neighborhoods, parks, schools,
7 and businesses surround the Landfill and are impacted by its operations.

8 2. Since approximately May of 2022, the Landfill has been experiencing a
9 significant subsurface reaction (“Subsurface Reaction”) that has grown in size and
10 impact over the last two years. The Subsurface Reaction now covers 35 acres and is
11 just 1,000 feet from the nearest residence. Defendants caused and failed to prevent the
12 Subsurface Reaction.

13 3. This Subsurface Reaction has caused noxious odors and toxic gases to
14 emanate from the Landfill, making living conditions around the Landfill unbearable
15 and causing the residents in the surrounding neighborhoods to experience headaches,
16 nosebleeds, respiratory issues, heart problems, and emotional distress, among other
17 harms.

18 4. The Subsurface Reaction has also caused the Landfill to produce large
19 amounts of leachate—a liquid made by landfills that leaches, or draws out, chemicals
20 or constituents from the waste buried in the landfill. Because of the Subsurface
21 Reaction, the Landfill’s leachate contains elevated levels of benzene and other
22 hazardous substances. Leachate emits noxious odors and chemicals and can be toxic
23 to humans when exposed to ambient air. Defendants have actively mismanaged the
24 substantial increase in leachate production at the Landfill. After their leachate
25 collection system failed, Defendants concealed leachate outbreaks at the Landfill
26 from regulatory agencies and the public. They allowed leachate to pool in ponds and
27 flow in rivers across the property. Leachate under high pressure has erupted at the
28 surface of the Landfill in geyser-like events spewing toxic chemicals into the air. The

1 Landfill is now producing over a million gallons of leachate a week. Unable to
2 dispose of this liquid properly and legally, Defendants have illegally dumped the toxic
3 liquid into the Santa Clara River.

4 5. Defendants caused this Subsurface Reaction. Defendants then failed to
5 detect the Reaction in a timely manner and, since it was discovered, have failed to
6 stop the Reaction or abate its effects. Indeed, Defendants' mismanagement of their
7 response to the Subsurface Reaction has unnecessarily elongated its effects.

8 6. Defendants' actions have created a severe nuisance and harmed the
9 health and property of nearby residents and workers.

10 7. Plaintiffs seek injunctive relief and compensatory and punitive damages
11 for the extensive harm they have suffered because of Defendants' actions.

12 JURISDICTION AND VENUE

13 8. Jurisdiction in this Court is proper under 28 U.S.C. § 1332(d)(a)(1)
14 because there is complete diversity between the parties.

15 9. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) and (b)(1) because a
16 substantial part of the events giving rise to the claims occurred in the Central District
17 of California and because Defendants all reside there.

18 THE PARTIES

19 10. Plaintiffs are approximately 93 individuals who have been damaged by
20 the Subsurface Reaction. These individuals currently live or work around the Landfill
21 or use to live or work around the Landfill, but were forced to move away from the
22 Landfill because of the Subsurface Reaction. A complete list of the Plaintiffs is
23 contained in Appendix A attached hereto.

24 11. Defendant Chiquita Canyon, LLC, is, and at all relevant times mentioned
25 herein was, a limited liability company duly formed under Delaware law, with its
26 principal place of business located at 3 Waterway Square PL #110, The Woodlands,
27 Texas 77380.

1 12. Defendant Chiquita Canyon, Inc., is, and at all relevant times mentioned
2 herein was, a corporation duly formed under Delaware law, with its principal place of
3 business located at 3 Waterway Square PL #110, The Woodlands, Texas 77380.

4 13. Defendant Waste Connections US, Inc. (“Waste Connections”), is, and
5 at all relevant times mentioned herein was, a corporation duly formed under Delaware
6 law, with its principal place of business located at 3 Waterway Square PL #110, The
7 Woodlands, Texas 77380.

8 14. On information and belief, Defendant Waste Connections is the sole
9 owner of Defendant Chiquita Canyon, Inc.

10 15. Defendant Chiquita Canyon, Inc., is the sole member of Defendant
11 Chiquita Canyon, LLC.

12 16. Defendants, primarily through Chiquita Canyon, LLC, operate the
13 Landfill, which is located at 29201 Henry Mayo Dr. Castaic, CA 91384.

14 17. On information and belief, Waste Connections exercises significant
15 control of Chiquita Canyon, Inc. and Chiquita Canyon, LLC, including but not limited
16 to the general management of, and daily activities at, the Landfill.

17 18. Waste Connections, Chiquita Canyon, Inc., and Chiquita Canyon, LLC
18 at all relevant times had a unity of interest and ownership such that any individuality
19 and separateness between them has ceased, and each such entity is the alter ego of
20 each other entity.

21 19. Waste Connections, Chiquita Canyon, Inc., and Chiquita Canyon, LLC
22 present themselves to the public as one entity. For example, the Chiquita Canyon
23 Landfill website is entitled “Chiquita Canyon A Waste Connections Company.”
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1 20. The following branding is featured prominently on the Landfill website,
2 at the physical entrances to the Landfill, and on letterhead used by Landfill
3 employees:



8 21. All three Defendants have the same principal office.

9 22. On information and belief, all three Defendants have the same executive
10 management team.

11 23. Both Waste Connections and Chiquita Canyon Inc. have the same three
12 corporate officers: Patrick Shea (Secretary), Mary Anne Whitney (Chief Financial
13 Officer), and Ronald J. Mittelstaedt (Chief Executive Officer). All three of these
14 individuals are Waste Connections employees.

15 24. The two “Managers or Members” of Chiquita Canyon LLC, as identified
16 on its Statement of Information filed with the California Secretary of State, are
17 Chiquita Canyon, Inc. and Ronald J. Mittelstaedt.

18 25. Documents filed with California governmental entities that regulate the
19 Landfill say that the Landfill “is owned and operated by Chiquita Canyon LLC, which
20 is a wholly-owned subsidiary of Waste Connections, Inc.”

21 26. Defendants repeatedly misrepresent their corporate form to the public,
22 creditors, and others. Many of the employees operating the Landfill on a day-to-day
23 basis are not Chiquita Canyon LLC employees, but rather Waste Connections
24 employees. Waste Connections, not Chiquita Canyon LLC or Chiquita Canyon Inc.,
25 hire, manage, and provide benefits to the employees that work at the Chiquita Canyon
26 Landfill.

1 27. In addition, many of the individuals appearing at public hearings
2 regarding Landfill operations are not Chiquita Canyon LLC employees, but rather
3 Waste Connections employees.

4 28. For example, Steve Cassulo and John Perkey regularly appear at the
5 monthly meetings of the Community Advisory Committee for Chiquita Canyon
6 Landfill on behalf of the Landfill operator.

7 29. Mr. Cassulo, the primary spokesperson for the Landfill, has publicly
8 identified himself as both a District Manager for Waste Connections and a District
9 Manager for Chiquita Canyon LLC. He signs his letters as “District Manger Chiquita
10 Canyon LLC,” but uses an email address with a Waste Connections email domain and
11 lists Waste Connections as his employer on several social media sites.

12 30. John Perkey does not purport to work for Chiquita Canyon LLC. He is
13 the Vice President, Deputy General Counsel of Compliance and Government Affairs
14 for Waste Connections. However, he regularly speaks on behalf of, and directs the
15 legal decisions for, Chiquita Canyon LLC.

16 31. On information and belief, Chiquita Canyon Inc. and Chiquita Canyon
17 LLC are inadequately capitalized and operate as shell companies to shield Waste
18 Connections from debts and liabilities that may arise related to the operation of the
19 Chiquita Canyon Landfill.

20 32. Instead of directly acquiring and operating the Landfill entirely on its
21 own, Waste Connections first formed Chiquita Canyon Inc. in 2009 for the sole
22 purpose of acquiring the Landfill. Chiquita Canyon Inc. does not appear to have any
23 employees or operations. It appears to own just one asset: Chiquita Canyon LLC.
24 Chiquita Canyon Inc. thus operates solely as a shell corporation. The only purpose of
25 forming and maintaining such a shell is to cabin the liability exposure of its parent,
26 Waste Connections.

27 33. Although it does not have any operations or employees, Chiquita Canyon
28 Inc. has held itself out as financially responsible for the debts of Chiquita Canyon

1 LLC. Landfill operators in the state of California are required to provide to state
2 agencies that regulate landfills “financial assurance” that they will be able to pay for
3 the costs of closure of the landfill, post-closure maintenance, and corrective action
4 costs. To satisfy this requirement, Chiquita Canyon Inc., *not* Chiquita Canyon LLC,
5 provided three surety bonds totaling nearly \$40 million. Significantly, the cost
6 estimates that form the basis for these bonds budgeted \$0 to cover the cost of a
7 subsurface fire or elevated temperature landfill event.

8 34. On information and belief, Chiquita Canyon Inc. is inadequately
9 capitalized to guarantee the closure, post-closure, and corrective action costs for the
10 Chiquita Canyon Landfill. On information and belief, the anticipated closure, post-
11 closure, and corrective action costs for the Chiquita Canyon Landfill exceed hundreds
12 of millions of dollars, and despite full knowledge of those anticipated costs,
13 Defendants structured themselves with the deliberate intent that Chiquita Canyon Inc.
14 and Chiquita Canyon LLC be undercapitalized and unable to shoulder these costs, and
15 thereby operate as a shell designed to inequitably and wrongfully insulate Waste
16 Connections from the corresponding liabilities for the benefits it received from these
17 subordinate entities.

18 35. Waste Connections, Inc. is a publicly held company and the parent
19 company to Waste Connections US. Waste Connections, Inc. has held itself out to the
20 public, shareholders, and creditors as potentially responsible, through Waste
21 Connections US, for Chiquita Canyon LLC’s and Chiquita Canyon Inc.’s debt. In its
22 2023 annual report to shareholders, Waste Connections, Inc. reported as follows:

23 Our accruals for our landfill site closure and post-closure costs **may be**
24 **inadequate.**

25 We regularly accrue amounts and establish reserves to pay capping,
26 closure and post-closure maintenance costs for landfill sites that we own
27 and operate as well as for landfills we operate under life-of-site
28 agreements. Our obligations to pay closure or post-closure costs

1 sometimes exceed the amount we have accrued and reserved and other
2 amounts available from funds or reserves established to pay such costs,
3 resulting in adjustments to accruals and reserves and additional costs.
4 The completion or closure of a landfill site does not end our
5 environmental obligations. **After completion or closure of a landfill**
6 **site, we sometimes incur additional costs, including recently as a**
7 **result of an elevated temperature landfill (“ETLF”) event, which has**
8 **resulted in increased leachate generation and related capital and**
9 **operating expenses that have increased our closure and post closure**
10 **costs at our Chiquita Canyon Landfill.** In addition, environmental
11 problems may occur that could result in substantial remediation costs,
12 regulatory enforcement actions and related fines or potential litigation.
13 The potential increased regulation of per- and polyfluoroalkyl substances
14 (“PFAS”), bisphenol A (“BPA”) phthalates, methane and other emerging
15 contaminants could result in greater expenditures for closure and post-
16 closure costs. It is also possible that accruals may need to be expanded
17 and that costs incurred related to these activities could be accelerated.
18 **Paying additional amounts for closure or post-closure costs and/or**
19 **for environmental remediation and/or for litigation could harm our**
20 **financial condition, operating results, or cash flow.**

21 36. Based on this and other information and belief, Chiquita Canyon LLC is
22 inadequately capitalized and will be unable to pay for the costs to continue operating
23 the Landfill and to address the many costs associated with the Subsurface Reaction.
24 These costs already include, among other things: (1) labor and material costs to
25 implement remediation measures ordered by local, state, and federal agencies, for
26 example, the cost to conduct air monitoring, install a geosynthetic cover over the
27 Subsurface Reaction, install gas and leachate extraction equipment, and store and ship
28 leachate offsite; (2) costs to pay fines to the numerous state, local, and federal

1 agencies that have sanctioned Chiquita Canyon LLC; (3) costs to investigate the cause
2 of the Subsurface Reaction; (4) legal and other costs to defend against the civil and
3 regulatory actions that have been filed against Chiquita Canyon LLC; and
4 (5) environmental remediation costs. On information and belief, Waste Connections
5 anticipated these events and costs and structured its corporate form in a deliberate
6 attempt to obtain the benefits of the Landfill without the corresponding liabilities. In
7 addition, if this, and other civil lawsuits that have been filed against Chiquita Canyon
8 LLC are successful, then these costs could include damages for harm suffered by
9 thousands of individuals living around the Landfill, the cost to relocate individuals
10 and families living next to the Landfill, and ongoing medical monitoring.

11 37. The Landfill stopped accepting solid waste on December 31, 2024. As
12 a consequence, the Landfill currently has little to no income to pay for these many
13 costs. In addition, there is a real possibility that the Landfill's permits may be revoked
14 or that the shutdown becomes permanent, meaning the Landfill will never have
15 additional income in the future to pay for these many costs.

16 38. Given that Waste Connections exercises significant control over Chiquita
17 Canyon LLC, has used the formation of Chiquita Canyon LLC and Chiquita Canyon
18 Inc. to shield itself from liability, has misrepresented the corporate form, and both
19 Chiquita Canyon LLC and Chiquita Canyon Inc. are inadequately capitalized to pay
20 for their known and foreseeable costs, it would promote an injustice to treat Waste
21 Connections, Chiquita Canyon LLC, and Chiquita Canyon Inc. as separate corporate
22 entities, and not the alter egos of one another. To treat Waste Connections, Chiquita
23 Canyon LLC, and Chiquita Canyon Inc. as separate corporate entities would permit
24 Waste Connections to continue to shield itself from liability using the corporate form
25 and would unjustly prevent Plaintiffs from recovering any or all the damages they are
26 entitled to because the entities whose names appear on the Landfill's operating
27 permits and who have claimed primary responsibility for harms caused by the
28

1 Landfill—Chiquita Canyon LLC and Chiquita Canyon Inc.—are severely
2 undercapitalized and unable to pay for their costs.

3 39. The names of other Defendants and/or their involvement in the events
4 giving rise to Plaintiffs' claims are unknown to Plaintiffs at this time. Plaintiffs
5 therefore sue such Defendants in this action by fictitious names, identified as Does 1-
6 50. Plaintiffs will seek leave of the Court to amend this pleading to reflect the true
7 names and capacities of the Defendants designated as Does 1-50 when their identities
8 and/or involvement become known.

9 40. Defendants are jointly and severally liable to the Plaintiffs for the injuries
10 and damages Plaintiffs sustained as a proximate result of Defendants' conduct. Each
11 Defendant committed, conspired to commit, and/or ratified each of the acts and
12 omissions alleged in this First Amended Complaint. Each of the Defendants acted as
13 the agents, servants, employees and/or joint venturers of each other and each was
14 acting within the course and scope of their agency, service, employment and joint
15 venture at all relevant times. In addition, all acts performed by each Defendant while
16 acting as an agent, servant, employee and/or joint venturer have been adopted and
17 ratified by each other Defendant.

18 **STATEMENT OF FACTS**

19 41. The Chiquita Canyon Landfill is a 639-acre Class III landfill located in
20 the northern section of Los Angeles County.

21 42. The Landfill is located immediately next to or nearby multiple towns and
22 residential neighborhoods including Val Verde, Castaic's Hasley Canyon, Hasley
23 Hills, Hillcrest, Live Oaks, and Williams Ranch neighborhoods, Santa Clarita,
24 Stevenson Ranch, and Valencia.

25 43. These towns and neighborhoods are home to several thousand residents,
26 as well as schools, parks, and churches.

27 44. The Landfill is also located next to a commercial center, which is home
28 to several dozen businesses and a post office.

I. The History of the Communities Involved

45. The surrounding communities have long histories that stretch back far before the Landfill was created.

46. Val Verde was settled by Spanish settlers around a gold strike in the 1800s. The area had already been inhabited by the Chumash, Gabrieleño, Fernandeño, Vanyume and Tataviam cultures from about A.D. 450 to the early 19th Century.

47. In 1924, a group of Black Los Angeles professionals bought 1,000 acres to build a resort in the hills west of Castaic Junction between Hasley Canyon and the Santa Clara River, in what is now known as Val Verde. The resort thrived and the surrounding community expanded. Over the decades, the community transformed from vacation homes to primary residences for its residents. Val Verde is now a diverse community of working-class people with a population of approximately 3,177. It is located to the west of the Landfill.

48. Hasley Canyon, a community in Castaic, California, just north of the Landfill, began to be developed in the 1970s. It is a horse-riding community with miles of trails and many ranch properties. Hasley Canyon now has a population of approximately 1,450.

49. The Hasley Canyon Equestrian Center, located just feet from the Landfill, is a sixty-seven-acre facility along Hasley Creek featuring a fenced arena, horse warm-up area, equestrian barn with office and storage space, equestrian trail connections and day use parking for horse trailers and cars. This center provides a public location for local equestrian enthusiasts and professionals, law enforcement mounted units, and educational facilities.

50. Live Oaks, a community in Castaic, California located northeast of the Landfill, developed in the 1980s. It contains Live Oak Elementary School and Hasley Canyon Park.

1 51. The Hasley Hills community of Castaic, California, located immediately
2 to the north and northwest of the Live Oaks community, was developed from 1988 –
3 2003.

4 52. The Hillcrest community of Castaic, California, was developed north of
5 Hasley Canyon from the early 1990s to the early 2000s. Hillcrest has approximately
6 8,560 residents.

7 53. The Williams Ranch community is currently being built between the
8 Hasley Hills and Hasley Canyon communities. The developers plan to build 497 new
9 homes there.

10 54. Recently, the County approved the development of another community,
11 Sterling Ranch Estates, immediately north of the Landfill.

12 **II. The History of the Chiquita Canyon Landfill**

13 55. The Chiquita Canyon Landfill was first approved for a land reclamation
14 project by the Los Angeles County Planning Commission on December 21, 1965.

15 56. The Landfill initially operated under a series of zoning entitlements.
16 Then, on November 24, 1982, the Landfill obtained Conditional Use Permit (“CUP”)
17 1809, which permitted the Landfill to expand and continue operating under certain
18 conditions until November 24, 1997.

19 57. Prior to the expiration of CUP 1809, the Landfill operator, then Laidlaw
20 Waste Management Inc., applied for another conditional use permit to further expand
21 and extend the life of the Landfill.

22 58. On May 20, 1997, the Los Angeles County Board of Supervisors granted
23 the Landfill Conditional Use Permit 89-081(5).

24 59. CUP 89-081(5) authorized the lateral and vertical expansion of the
25 Landfill. Under CUP 89-081(5), the Landfill was permitted to operate as a Class III
26 until it reached a waste capacity of 23 million tons or until November 24, 2019,
27 whichever occurred first. Class III landfills can only accept non-hazardous solid
28 waste.

1 60. CUP 89-081(5) imposed caps on the amount of waste the Landfill could
2 receive daily and weekly. The Landfill was permitted to accept up to 6,000 tons of
3 waste per day and up to 30,000 tons of waste per week.

4 61. In the process of applying for CUP 89-081(5), Laidlaw Waste
5 Management Inc. reached an agreement with the Val Verde Civic Association that
6 would allow the Landfill to remain open until 2019 in exchange for \$250,000 a year
7 for community improvements.

8 62. After the Landfill changed ownership several times, in 2009, Waste
9 Connections, Inc. purchased the Landfill from Republic Services through its wholly
10 owned subsidiary Chiquita Canyon, Inc.

11 63. Thereafter, Chiquita Canyon, Inc. is identified in all public documents as
12 the owner and operator of the Landfill until around 2017, at which time Chiquita
13 Canyon, LLC is identified as the owner and operator of the Landfill.

14 64. In or around July 2011, Defendants began applying for permits to again
15 expand and extend the life of the Landfill.

16 65. Among other things, their proposed plan sought to expand the waste
17 disposal footprint from 257 acres to 400 acres; increase the maximum elevation of the
18 Landfill from 1,430 feet to 1,573 feet; and double the daily and weekly caps on the
19 amount of waste the Landfill could receive (increasing these caps to 12,000 tons and
20 60,000 tons respectively).

21 66. Over the next several years, the Los Angeles County Department of
22 Regional Planning assessed the proposed expansion and its environmental impacts
23 and held public hearings regarding the same.

24 67. The surrounding communities vehemently opposed the expansion. They
25 had serious concerns about how the continued operation and expansion of the Landfill
26 would impact public health, air quality, traffic, the environment, property values,
27 water qualities, and biological resources surrounding the Landfill.

1 68. Residents from the surrounding communities gave oral testimony at
2 public hearings on the matter and contacted Defendants and the Los Angeles County
3 Department of Regional Planning in writing and by phone to express their opposition.

4 69. In 2015, the Landfill was nearing its 23-million-ton limit, but the Los
5 Angeles County Department of Regional Planning had not yet approved or denied
6 Defendants' expansion plan.

7 70. By letter dated November 19, 2015, Mike Dean, Division Vice President
8 for Waste Connections, requested that the Director of the Los Angeles County
9 Department of Regional Planning grant Defendants a temporary waiver to permit the
10 Landfill to exceed the 23-million-ton limit during the pendency of the application to
11 avoid a temporary closure of the Landfill while the application was pending.

12 71. On March 17, 2016, Richard Bruckner, the Director of Planning for the
13 Los Angeles County Department of Regional Planning granted Defendants a waiver
14 that permitted the Landfill to accept up to 29.4 million tons of waste while the
15 expansion permit was pending.

16 72. In the spring of 2016, the Landfill reached and exceeded the 23 million
17 tonnage limit allowed under CUP 89-081(5), but it continued to operate under the
18 waiver granted by Director Bruckner.

19 73. On July 25, 2017, Los Angeles County approved Defendants' expansion
20 plan and granted them Conditional Use Permit No. 2004-00042-(5).

21 74. The new CUP authorized the Landfill to continue operating and
22 expanding for another 30 years.

23 75. The new CUP laterally expanded the waste disposal area by 149 acres to
24 a total area of 400 acres.

25 76. For the first roughly seven years under the new CUP—from 2017
26 through December 31, 2024—the Landfill was permitted to intake 2,800,000 tons of
27 “combined solid waste and beneficial use materials” each year—on average
28 approximately 54,000 tons of waste each week.

1 77. For the next roughly 23 years—from January 1, 2025, through 2047—
2 the Landfill was permitted to intake 1,800,000 tons each year of “combined solid
3 waste and beneficial use materials”—on average approximately 35,000 tons of waste
4 each week.

5 78. CUP 2004-00042-(5) contains 130 detailed “conditions of approval.”

6 79. For example, under section 12, Defendants must “develop[], maintain[],
7 and operate[] [the Landfill] in full compliance with the conditions of [the CUP], and
8 any [applicable] law, statute, ordinance, or other regulation.”

9 80. Under section 63, Defendants must ensure the Landfill does not “create
10 a nuisance in the surrounding communities,” and must “adopt and implement
11 operational practices to mitigate air quality impacts including, but not limited to, odor,
12 dust, and vehicular air quality impacts” “[a]s required by the SCAQMD.”

13 81. Under sections 65 and 68, Defendants must conduct air and Landfill gas
14 monitoring that meets certain specifications.

15 82. Under section 64, Defendants must “use Landfill gas for energy
16 generation at the Facility or other beneficial uses, rather than flaring to the extent
17 feasible[.]”

18 83. Under section 20, any person violating a provision of the CUP is guilty
19 of a misdemeanor and the Regional Planning Commission may revoke or modify the
20 CUP if it determines that any condition of the CUP has been violated, or that the CUP
21 “has been exercised so as to be detrimental to the public’s health or safety, or so as to
22 be a nuisance[.]”

23 84. Under section 15, the Los Angeles Department of Regional Planning or
24 the Los Angeles County Department of Public Health can order the immediate
25 termination of Landfill operations if either determines that it is “necessary for the
26 health, safety, and/or welfare of the County’s residents or the environment.”
27
28

1 **III. The Subsurface Reaction**

2 85. On information and belief, beginning in approximately May of 2022, a
3 reaction began to occur underground in an inactive portion of the Landfill located in
4 the northwestern corner. This Subsurface Reaction is characterized by extreme
5 temperature increases, excessive leachate production, and a change in composition
6 and volume of the landfill gas.¹

7 86. The communities nearby the Landfill had no idea that this Subsurface
8 Reaction was occurring in May 2022.

9 87. This Subsurface Reaction continued for a full year until the odors
10 emanating from the Landfill alerted the nearby communities that something was
11 happening at the Landfill.

12 **A. In February 2023 Defendants ask for an emergency ex parte permit**
13 **variance after detecting elevated levels of dimethyl sulfide in**
14 **Landfill gas.**

15 88. A natural byproduct of the decomposition process that occurs in any
16 landfill is a gaseous substance known as “landfill gas.”

17 89. The Chiquita Canyon Landfill, like most landfills, contains a landfill gas
18 collection system that amasses gas created by the Landfill and directs it to be used for
19 energy generation or combustion at a landfill flare.

20 90. In January 2023, the Chiquita Canyon Landfill collected landfill gas
21 using its landfill gas collection system and sent it to Ameresco Chiquita Energy, LLC
22 (“Ameresco”), which turned it into electricity.

23 _____
24 ¹ There has been some debate about whether the Subsurface Reaction is a “subsurface
25 oxidation” event—which occurs when oxygen infiltrates landfill cover and causes a
26 chemical reaction—or an “elevated temperature landfill” event—which can also be
27 caused by a chemical reaction, but not oxygen infiltration. The two types of
28 subsurface events have similar symptoms, but different causes. For the purposes of
this Fourth Amended Complaint, the exact type of event that is occurring is not
relevant.

1 91. On January 31, 2023, Ameresco shut down its landfill gas-to-energy
2 plant after it detected high levels of sulfur in the landfill gas coming to the plant.
3 Ameresco notified Chiquita Canyon, LLC of the shutdown.

4 92. The following day, February 1, 2023, Chiquita Canyon, LLC ran lab tests
5 on its landfill gas and discovered the gas contained elevated levels of sulfur and
6 dimethyl sulfide.

7 93. The levels of these chemicals were so high that the Landfill was either at
8 risk of or had already violated its operating permits and the air quality rules and
9 regulations enforced by the South Coast Air Quality Management District (“South
10 Coast AQMD”).

11 94. The South Coast AQMD is the air pollution control agency for the South
12 Coast Air Basin, which covers all of Orange County and the urban portions of Los
13 Angeles, Riverside and San Bernardino counties. *See* Cal. Health & Safety Code
14 §§ 40400-540.

15 95. In this role, the South Coast AQMD is under a legal obligation to enforce
16 air quality and pollution laws and regulations within its jurisdiction.

17 96. The Landfill is within South Coast AQMD’s jurisdiction.

18 97. South Coast AQMD has adopted rules and procedures for enforcing air
19 quality and pollution laws and regulations. These rules and procedures are primarily
20 meant to ensure that the surrounding (or ambient) air meets federal and state air
21 quality standards.

22 98. In addition to its Conditional Use Permit issued by Los Angeles County,
23 the Landfill was required to obtain, and did obtain, a Title V facility permit to operate
24 from South Coast AQMD.

25 99. The Landfill was also required to obtain, and did obtain from South
26 Coast AQMD, permits to operate the different components of the Landfill, including
27 its landfill gas collection system and its leachate collection system.
28

1 100. After lab tests revealed elevated levels of sulfur and dimethyl sulfide in
2 the landfill gas, Chiquita Canyon, LLC sought an *ex parte* emergency variance, an
3 interim variance, and a regular variance from South Coast AQMD to avoid the
4 inevitable violation of its various permits and South Coast AQMD Rules and
5 Regulations.

6 101. On February 8, 2023, South Coast AQMD granted the request for an
7 emergency variance with numerous conditions, including requiring Chiquita Canyon,
8 LLC to sample and analyze the landfill gas daily, submit weekly reports regarding the
9 landfill gas composition and its efforts to resolve the elevated chemical levels in the
10 gas, and conduct a “root cause analysis” to determine the underlying cause.

11 102. On February 15, 2023, South Coast AQMD granted Chiquita Canyon,
12 LLC’s request for an interim variance, again with conditions.

13 103. Among the conditions of the interim variance was the requirement that
14 Chiquita Canyon, LLC provide “[a]ll wellhead temperature readings, lab analysis, and
15 Draeger tube readings for landfill gas from the past twelve (12) months in a Microsoft
16 Excel spreadsheet format” by February 27, 2023.

17 104. Chiquita Canyon LLC failed to provide the lab analysis and Draeger tube
18 readings from the past twelve months by February 27, 2023.

19 105. That day, the South Coast AQMD issued a Notice of Violation to the
20 Landfill for failing to provide this required information.

21 106. On May 3, 2023, South Coast AQMD granted Chiquita Canyon, LLC’s
22 request for a regular variance, again with conditions.

23 107. In its “FINDINGS AND DECISION” granting the regular variance, the
24 South Coast AQMD Hearing Board concluded Chiquita Canyon, LLC “is in violation
25 of South Coast AQMD Rules 203(b), 431.1(c)(2) and 3002(c)(1)” and that
26 “[c]ompliance [with these Rules] will be achieved when dimethyl sulfide
27 concentrations generated from the landfill are reduced to a level where all control
28 devices, including Ameresco, can operate within permitted sulfur emissions limits.”

1 108. South Coast AQMD specified that the regular variance “shall continue
2 through February 8, 2024, or until final compliance, whichever comes first.”

3 **B. South Coast AQMD issues hundreds of notices of violation to**
4 **Defendants regarding Landfill odors.**

5 109. While Chiquita Canyon, LLC was seeking its permit variance, odors
6 emanating from the Landfill became severe enough that residents from the
7 surrounding communities began making complaints regarding the air quality to South
8 Coast AQMD.

9 110. As part of its work in enforcing air quality and pollution regulations,
10 South Coast AQMD accepts complaints from members of the public regarding air
11 quality problems.

12 111. South Coast AQMD maintains an online complaint system and a
13 telephone hotline for accepting such complaints.

14 112. South Coast AQMD Rules contain a number of prohibitions. Relevant
15 here, South Coast AQMD Rule 402 prohibits creating a nuisance by discharging “air
16 contaminants or other material.” This Rule provides:

17 **Rule 402. NUISANCE**

18 A person shall not discharge from any source whatsoever such quantities
19 of air contaminants or other material which cause injury, detriment,
20 nuisance, or annoyance to any considerable number of persons or to the
21 public, or which endanger the comfort, repose, health or safety of any
22 such persons or the public, or which cause, or have a natural tendency to
23 cause, injury or damage to business or property.

24 113. South Coast AQMD also enforces California Health & Safety Code
25 Section 41700. Like South Coast AQMD Rule 402, Section 41700 provides:

26 (a) Except as otherwise provided in Section 41705, a person shall not
27 discharge from any source whatsoever quantities of air contaminants or
28 other material that cause injury, detriment, nuisance, or annoyance to any

1 considerable number of persons or to the public, or that endanger the
2 comfort, repose, health, or safety of any of those persons or the public,
3 or that cause, or have a natural tendency to cause, injury or damage to
4 business or property.

5 114. On information and belief, under South Coast AQMD's internal policies
6 and practices, the South Coast AQMD will dispatch an investigator to investigate a
7 potential violation of Rule 402 if it receives three nuisance complaints regarding the
8 same issue within a one-hour period. If the investigator can confirm the source of the
9 nuisance and is able to verify complaints made by at least six members of the public
10 regarding the nuisance in a 24-hour period, then South Coast AQMD will issue a
11 Notice of Violation to the source of the nuisance.

12 115. On information and belief, South Coast AQMD received its first
13 complaint from a member of the public of an odor nuisance from the Subsurface
14 Reaction in January 2023.

15 116. The complaints from community members to the South Coast AQMD
16 regarding the odors emanating from the Landfill increased significantly in April and
17 May of 2023.

18 117. South Coast AQMD dispatched investigators to investigate these
19 complaints.

20 118. Through its investigation, South Coast AQMD traced the source of the
21 odors back to the Landfill.

22 119. South Coast AQMD also confirmed that the Landfill gas contained
23 elevated levels of sulfur, specifically dimethyl sulfide.

24 120. On May 17, 2023, South Coast AQMD issued its first Notice of Violation
25 to the Landfill for creating a public nuisance in violation of Rule 402 and California
26 Health & Safety Code § 41700.

27 121. The odors emanating from the landfill continued to worsen and the
28 complaints to South Coast AQMD continued to increase. The following graph shows

the number of complaints South Coast AQMD received regarding the landfill from January 2023 through February 2024:²



122. After investigating these complaints, South Coast AQMD issued Notices of Violation to the Landfill under California Health & Safety Code § 41700, Rule 402, and other Agency Rules on the following dates: May 18, 2023, June 25, 2023, June 27, 2023, June 28, 2023, June 29, 2023, June 30, 2023, July 2, 2023, July 3, 2023, July 7, 2023, July 10, 2023, July 11, 2023, July 13, 2023, July 15, 2023, July 16, 2023, July 17, 2023, July 18, 2023, July 19, 2023, July 20, 2023, July 21, 2023, July 22, 2023, July 23, 2023, July 24, 2023, July 26, 2023, July 27, 2023, July 28, 2023, July 29, 2023, July 30, 2023, July 31, 2023, August 1, 2023, August 2, 2023, August 3, 2023, August 4, 2023, August 5, 2023, August 6, 2023, August 7, 2023, August 9, 2023, August 10, 2023, August 11, 2023, August 12, 2023, August 13, 2023, August 14, 2023, August 15, 2023, August 16, 2023, August 17, 2023, August 18, 2023, August 19, 2023, August 21, 2023, August 23, 2023, August 24, 2023, August 25,

² U.S. Environmental Protection Agency, March 21, 2024 Chiquita Canyon Landfill Presentation, <https://www.epa.gov/system/files/documents/2024-03/presentation-chiquita-canyon-landfill-community-meeting-2024-03-21.pdf>.

1 2023, August 27, 2023, August 28, 2023, August 29, 2023, August 30, 2023, August
2 31, 2023, September 1, 2023, September 5, 2023, September 6, 2023, September 7,
3 2023, September 8, 2023, September 12, 2023, September 13, 2023, September 14,
4 2023, September 15, 2023, September 19, 2023, September 20, 2023, September 21,
5 2023, September 22, 2023, September 25, 2023, September 26, 2023, September 27,
6 2023. September 28, 2023, October 2, 2023, October 3, 2023, October 5, 2023,
7 October 6, 2023, October 9, 2023, October 10, 2023, October 13, 2023, October 16,
8 2023, October 20, 2023, October 23, 2023, October 25, 2023, October 26, 2023,
9 October 27, 2023, November 2, 2023, November 6, 2023, November 10, 2023,
10 November 13, 2023, November 15, 2023, November 16, 2023, November 28, 2023,
11 and November 29, 2023, December 2, 2023, December 6, 2023, December 12, 2023,
12 December 18, 2023, December 27, 2023, December 29, 2023, January 3, 2024,
13 January 9, 2024, January 16, 2024, January 17, 2024, January 18, 2024, January 19,
14 2024, January 24, 2024, January 25, 2024, January 30, 2024, February 6, 2024,
15 February 7, 2024, February 8, 2024, February 9, 2024, February 12, 2024, February
16 13, 2024, February 14, 2024, February 15, 2024, February 16, 2024, February 20,
17 2024, February 21, 2024, February 22, 2024, February 26, 2024, February 27, 2024,
18 February 28, 2024, February 29, 2024, March 4, 2024, March 5, 2024, March 6, 2024,
19 March 8, 2024, March 11, 2024, March 15, 2024, March 19, 2024, March 20, 2024,
20 March 21, 2024, March 22, 2024, March 25, 2024, March 27, 2024, March 28, 2024,
21 March 29, 2024, April 2, 2024, April 2, 2024, April 3, 2024, April 4, 2024, April 8,
22 2024, April 10, 2024, April 12, 2024, April 15, 2024, April 16, 2024, April 17, 2024,
23 April 18, 2024, April 19, 2024, April 22, 2024, April 24, 2024, April 25, 2024, April
24 26, 2024, April 29, 2024, April 30, 2024, May 1, 2024, May 8, 2024, May 9, 2024,
25 May 10, 2024, May 13, 2024, and May 20, 2024, May 21, 2024, May 22, 2024, May
26 22, 2024, May 24, 2024, May 28, 2024, May 29, 2024, May 30, 2024, May 31, 2024,
27 June 3, 2024, June 4, 2024, June 5, 2024, June 6, 2024, June 7, 2024, June 11, 2024
28 June 12, 2024, June 13, 2024, June 14, 2024, June 17, 2024, June 20, 2024, June 24,

1 2024, June 25, 2024, June 26, 2024, June 27, 2024, June 28, 2024, July 2, 2024, July
2 3, 2024, July 5, 2024, July 8, 2024, July 9, 2024, July 11, 2024, July 12, 2024, July
3 15, 2024, July 16, 2024, July 17, 2024, July 18, 2024, July 19, 2024, July 22, 2024,
4 July 23, 2024, July 24, 2024, July 25, 2024, July 30, 2024, July 31, 2024, August 1,
5 2024, August 2, 2024, August 5, 2024, August 6, 2024, August 7, 2024, August 8,
6 2024, August 9, 2024, August 14, 2024, August 16, 2024, August 19, 2024, August
7 20, 2024, August 21, 2024, August 22, 2024, August 23, 2024, August 24, 2024,
8 August 26, 2024, August 27, 2024, August 28, 2024, August 29, 2024, August 30,
9 2024, September 3, 2024, September 4, 2024, September 5, 2024, September 6, 2024,
10 September 9, 2024, September 10, 2024, September 11, 2024, September 12, 2024,
11 September 13, 2024, September 16, 2024, September 17, 2024, September 18, 2024,
12 September 19, 2024, September 20, 2024, September 23, 2024, September 24, 2024,
13 September 25, 2024, September 26, 2024, September 27, 2024, September 30, 2024,
14 October 1, 2024, October 2, 2024, October 3, 2024, October 4, 2024, October 7, 2024,
15 October 9, 2024, October 10, 2024, October 16, 2024, October 21, 2024, October 22,
16 2024, October 23, 2024, October 24, 2024, October 25, 2024, October 30, 2024,
17 October 31, 2024, November 1, 2024, November 5, 2024, November 8, 2024,
18 November 13, 2024, November 14, 2024 November 18, 2024, November 20, 2024,
19 November 21, 2024, November 22, 2024, November 25, 2024, December 2, 2024,
20 December 3, 2024, December 4, 2024, December 5, 2024, December 12, 2024,
21 December 13, 2024, December 20, 2024, December 23, 2024, and December 30,
22 2024.

23 **C. In light of the ongoing public nuisance caused by the Landfill,**
24 **numerous state agencies issue notices of violation to Defendants and**
25 **South Coast AQMD seeks to revoke Chiquita Canyon, LLC's permit**
26 **variance.**

27 123. On July 26, 2023, the Los Angeles County Department of Public Health
28 issued a "Public Health notice to Waste Connection, Inc. regarding the persistent foul-
smelling odors emanating from the Chiquita Canyon Landfill . . . that are impacting

1 the health of nearby residents.” This Public Health notice declared that the Landfill
2 was a public nuisance, in violation of California Civil Code § 3479 and Los Angeles
3 County Code § 11.02.190.

4 124. A few weeks later, on August 18, 2023, the Los Angeles County
5 Department of Regional Planning issued a notice of violation to Chiquita Canyon
6 LLC, stating that Chiquita Canyon LLC was violating its Conditional Use Permit by
7 creating a nuisance and failing to mitigate the air quality impacts of the facility.

8 125. On August 14, 2023, South Coast AQMD filed a motion with the South
9 Coast AQMD Hearing Board to revoke Chiquita Canyon, LLC’s permit variance in
10 light of the ongoing nuisance and issue an order for abatement. Up to that date, South
11 Coast AQMD had received more than 1,200 complaints about the Landfill and issued
12 42 notices of violation of South Coast AQMD Rule 402 and Health & Safety Code
13 Section 41700.

14 126. On September 6, 2023, the South Coast AQMD Hearing Board held a
15 hearing on the request to revoke Chiquita Canyon LLC’s permit variance and issue an
16 order of abatement.

17 127. South Coast AQMD and Chiquita Canyon, LLC presented proposed
18 findings and a stipulation of abatement to the Hearing Board at the hearing. The
19 stipulation contained 40 separate “conditions and increments of progress” aimed at
20 addressing the ongoing nuisance created by the Landfill.

21 128. The Hearing Board adopted the proposed findings and stipulation for
22 abatement.

23 129. On October 16, 2023, CalRecycle—a branch of the California
24 Environmental Protection Agency charged with overseeing the state’s waste
25 management, recycling, and waste reduction programs—issued a report finding that
26 over the prior 18 months the Landfill had experienced, among other things, a
27 “heating/smoldering event that is expanding in size and intensity,” “[u]nusual landfill
28 settlement,” “Landfill gas temperatures over 170°F” and “subsurface temperatures

1 over 195°F,” and “[e]levated carbon monoxide concentration above 1000 ppmv.” It
2 further concluded that the “conditions at the CCL are causing additional gas pressure,
3 odors, elevated leachate temperatures, and damage to the gas extraction system.”
4 CalRecycle’s report proposed 15 mitigation measures to address these problems.

5 **D. Agencies discover leachate outbreaks at the Landfill.**

6 130. In September, October, and November of 2023, staff from state, local,
7 and national agencies, including the Los Angeles County Department of Health,
8 CalRecycle, South Coast AQMD, Los Angeles Regional Water Quality Control
9 Board, California Department of Toxic Substances Control, and the United States
10 Environmental Protection Agency, conducted site visits of the Landfill. During these
11 site visits they discovered leachate—the hazardous liquid produced by landfills—was
12 seeping out of the ground in multiple locations, flowing through channels on the
13 property, and pooling in ponds.

14 131. During several site visits in November 2023, agency officials observed
15 geysers of leachate erupting from the surface of the landfill up to 18 feet in the air and
16 leachate boiling in pools.

17 132. The South Coast AQMD Hearing Board’s September 6, 2023 Findings
18 and Order for Abatement had not addressed the Landfill’s leachate collection and
19 management system because South Coast AQMD did not know it was an issue at that
20 time and Defendants had not disclosed the issue.

21 133. Upon investigation, South Coast AQMD discovered that significant
22 leachate seepage had been occurring at the Landfill for months—at least since April
23 2023.

24 134. It was also discovered that the Landfill’s leachate production had steadily
25 increased from approximately 150,000 gallons per week in January 2022 to over
26 1,000,000 gallons per week in September 2023.

27 135. The exposure of leachate to the atmosphere at the Landfill created a
28 public nuisance and violated several South Coast AQMD Rules and permit

1 requirements for the Landfill to maintain its leachate collection system in proper
2 working order.

3 136. Defendant's failure to notify South Coast AQMD of a breakdown of its
4 leachate collection system was another violation of South Coast AQMD's Rules and
5 unnecessarily extended the duration of the nuisance.

6 137. Directors or officers of Chiquita Canyon LLC knew about the increase
7 in leachate production, the leachate seeps, and the breakdown of the leachate
8 collection system at least as early as April 2023. These directors or officers
9 deliberately hid these problems from regulators, recklessly endangering Plaintiffs and
10 the environment, and unnecessarily extending the duration of the nuisance.

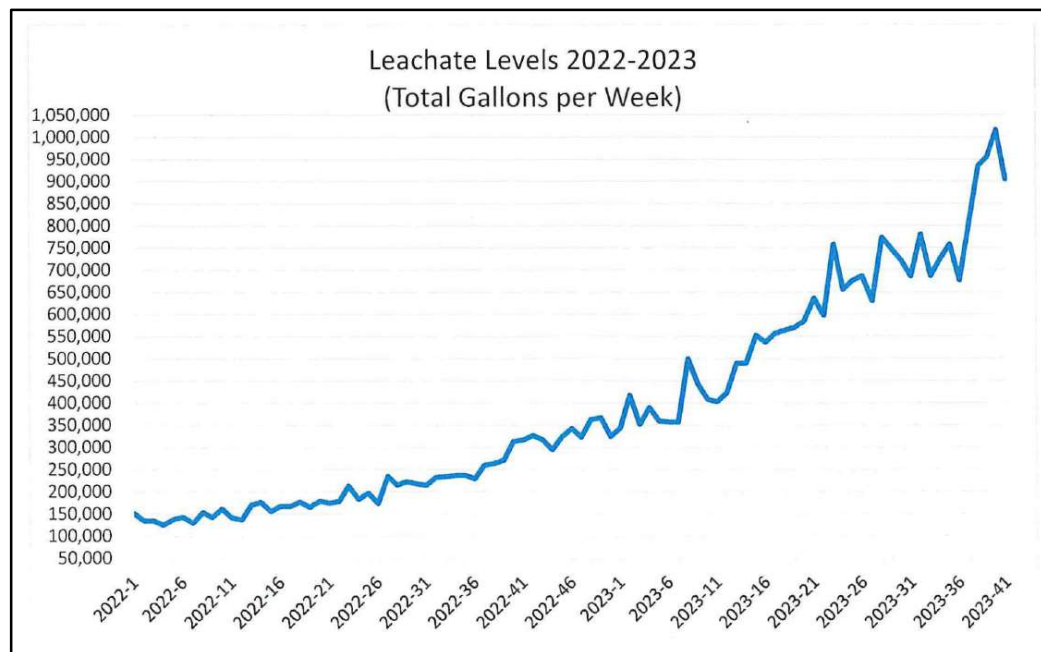
11 138. The principal supervisory and management positions within Chiquita
12 Canyon LLC are the District Manager and the Assistant District Manager. The
13 District Manager is "[r]esponsible for the overall site, which includes operations,
14 maintenance, environmental compliance, finance and accounting, personnel
15 supervision, and public relations." The District Manager manages the approximately
16 two dozen employees that work at the Landfill. The Assistant District Manager is
17 "[r]esponsible for environmental compliance, reporting and engineering aspects of
18 daily landfill operations."

19 139. During all times relevant to this action, Steve Cassulo served as District
20 Manager and Nicole Ward served as Assistant District Manager. Upon information
21 and belief, during all times relevant to this action, these two individuals were present
22 at the Landfill nearly every day, personally observed the reaction area and the leachate
23 seeps on a near daily basis, received information from subordinates on the status of
24 the Subsurface Reaction and leachate production and seeps on a near daily basis,
25 directed subordinates as to how to handle and dispose of leachate, and controlled what
26 information about the leachate production and seeps was shared with the public and
27 regulators.

28

1 140. During a South Coast AQMD investigation into the leachate problem in
2 October of 2023, Assistant District Manager Nicole Ward admitted that “[s]mall
3 [leachate] seeps have been observed around the site since mid-2022 that were
4 immediately cleaned up upon observation. Since April 2023, we have noticed seepage
5 that has reached the concrete-lined storm water channel.”

6 141. Just days later, District Manager Steve Cassulo sent a letter to the Los
7 Angeles County Local Enforcement Agency reporting, for the first time, that “the
8 waste mass in the reaction area is heavily saturated with liquids” and “leachate
9 quantities coming out of the Landfill have increased over the past two years, with a
10 significant increase since the beginning of 2023.” He included the following graph
11 showing the total gallons of leachate the Landfill was producing each week from the
12 beginning of 2022.



142. Based on this, and other information, the Landfill employees, including
Steve Cassulo and Nicole Ward, were tracking the Landfill’s leachate production since
at least January 2022, were aware that the Landfill’s leachate production had increased
seven-fold during that time, were aware that this excessive production created a

1 nuisance and posed a significant threat to the health of the thousands of individuals
2 living around the Landfill and the environment.

3 143. Steve Cassulo and Nicole Ward, who are officers and/or directors of
4 Chiquita Canyon LLC, deliberately chose not to disclose and to conceal this
5 information from regulators and the public, and deliberately chose not to take steps to
6 address the leachate production for months. These deliberate choices were a
7 conscious disregard for the health and safety of those living around the Landfill and
8 the environment.

9 144. On November 7, 2023, South Coast AQMD asked the South Coast
10 AQMD Hearing Board to set a hearing to address the leachate outbreaks observed at
11 the Landfill.

12 145. On November 22, 2023, the Los Angeles Region Water Quality Control
13 Board (“Water Board”) issued a notice of violation of the Water Board’s waste
14 discharge requirements to the Landfill. The leachate outbreaks, and the failure to
15 report them, violated multiple rules and regulations enforced by the Water Board.

16 146. The South Coast AQMD Hearing Board held a hearing to address the
17 leachate outbreaks on January 16, 2024. By the date of the hearing, South Coast
18 AQMD had received nearly 7,000 complaints from the community regarding the
19 odors emanating from the Landfill and had issued 107 notices of violation to the
20 Landfill.

21 147. South Coast AQMD and Chiquita Canyon, LLC submitted a stipulation
22 to the Hearing Board containing proposed modifications to the order of abatement
23 that would address the leachate monitoring and collection system. The Hearing Board
24 adopted the stipulation.

25 **E. Agencies discover the Landfill’s leachate contains elevated levels of**
26 **toxic substances and is being discharged into local waterways.**

27 148. To dispose of leachate, Defendants collect it in tanks and ship it offsite
28 for treatment at an appropriate disposal facility.

1 149. Despite knowing that the leachate may contain elevated levels of
2 benzene as a result of the Subsurface Reaction, Defendants repeatedly failed to test
3 the leachate before shipping it offsite and repeatedly shipped the leachate to facilities
4 that were not authorized to accept it.

5 150. In late November and December 2023, and February 2024, Defendants
6 shipped tanks of leachate to Radford Alexander Corp. D/B/A Avalon. The leachate
7 contained benzene, a chemical that is toxic to humans, above permitted regulatory
8 thresholds. Avalon does not have a hazardous waste treatment permit and was not
9 authorized to treat this leachate.

10 151. In January and February 2024, Defendants shipped tanks of leachate to
11 Patriot Environmental Services that contained benzene above permitted regulatory
12 thresholds. Patriot does not have a hazardous waste treatment permit and was not
13 authorized to treat this leachate.

14 152. On information and belief, Chiquita Canyon LLC officers and/or
15 directors Steve Cassulo and Nicole Ward knew that leachate was being shipped offsite
16 without being first tested for hazardous substances, such as benzene, and/or directed
17 Landfill employees to ship leachate offsite without first testing it for hazardous
18 substances. Steve Cassulo and Nicole Ward were responsible for Landfill operations,
19 reporting, and environmental compliance. Thus, they were the individuals ultimately
20 responsible for the handling and disposal of leachate at the Landfill. They were
21 present at the Landfill nearly every day and directed a small group of employees at
22 the Landfill to handle the disposal of leachate. The shipping of leachate offsite without
23 first testing it for hazardous substances was reckless and a conscious disregard for the
24 health and safety of the environment and the public.

25 153. On February 15, 2024, the California Department of Toxic Substances
26 Control issued a notice of violations to Chiquita Canyon, LLC for shipping hazardous
27 leachate to facilities not authorized to accept it and for its repeated failures to manage
28

1 all the leachate being produced by the Landfill, which may contain elevated levels of
2 benzene and/or other hazardous substances.

3 154. On February 16, 2024, the California Department of Toxic Substances
4 Control issued a Proposition 65 Notification, warning that “an illegal discharge and
5 or a threatened illegal discharge of a hazardous waste has occurred and that such
6 discharge or threatened discharge is likely to cause substantial injury to the public
7 health or safety.” The Notification explained that uncontrolled leachate seeps, which
8 likely contained hazardous substances, were likely to commingle with stormwater,
9 reach the Landfill’s sedimentation basin, and be discharged offsite, including into the
10 Santa Clara River.

11 155. Unable to ship its hazardous leachate offsite, Defendants began storing
12 more and more leachate onsite and treating some of it themselves.

13 156. Unable to handle all of the leachate being produced by the Landfill,
14 Defendants begin illegally dumping leachate into the Santa Clara River. In March
15 2024, Defendants were observed multiple times illegally dumping leachate into the
16 Santa Clara River using pumping equipment mounted on top of the south stormwater
17 detention basin spillway.

18 157. On March 28, 2024, the Water Board issued a Notice of Violation to
19 Defendants for failing to control leachate seepage and collection and permitting
20 leachate to mix with stormwater runoff, which flowed into the Landfill’s stormwater
21 basin and into the Santa Clara River. The Notice noted that samples were taken from
22 the stormwater basin on multiple occasions in December 2023, January 2024, and
23 February 2024. All of those samples contained elevated levels of multiple hazardous
24 substances.

25 158. On April 9, 2024, the Water Board issued a Notice of Violation to
26 Defendants for intentionally illegally dumping water containing unknown substances
27 into the Santa Clara River using pumping equipment.
28

1 159. Chiquita Canyon LLC officers and/or directors Steve Cassulo and Nicole
2 Ward were ultimately responsible for tracking leachate production, storage, and
3 proper disposal. On information and belief, at all relevant times they were at the
4 Landfill site on a near daily basis monitoring and directing the few employees
5 assigned to handle the tracking, storage, and disposal of leachate. On information and
6 belief, Steve Cassulo and/or Nicole Ward directed the illegal dumping of leachate or
7 knew it was occurring and failed to stop it. Their actions in this regard were reckless
8 and a conscious disregard for the health and safety of the environment, the public, and
9 Plaintiffs.

10 **F. After Defendants repeatedly failed to address nuisances, other**
11 **agencies sanction the Landfill.**

12 160. Defendants struggled to implement remediation measures ordered by the
13 South Coast AQMD Hearing Board, the Los Angeles County Department of Public
14 Health, Solid Waste Management Program, and others. Defendants failed to meet
15 deadlines for the implementation of various remediation measures and repeatedly
16 requested deadline extensions.

17 161. After continuously failing to mitigate the ongoing odor and leachate
18 problems, on February 8, 2024, CalRecycle declared its intent to include the Chiquita
19 Canyon Landfill on the inventory of solid waste facilities which violate state
20 minimum standards. The declaration gave Defendants 90 days to implement
21 measures to bring the Landfill into compliance with state minimum standards
22 regarding gas monitoring and control and site maintenance.

23 162. On February 21, 2024, the United States Environmental Protection
24 Agency issued a Unilateral Administrative Order to Chiquita Canyon, LLC, EPA
25 DOCKET NO. RCRA 7003-09-2024-0001 and CERCLA 106-09-2024-05. This
26 order concluded that the conditions at the Landfill violated several federal laws and
27 regulations and posed an imminent and substantial endangerment to public health and
28 welfare or the environment.

1 163. On May 15, 2024, CalRecycle issued a notice to Defendants that the
2 Landfill had been included on the inventory of solid waste facilities which violate
3 state minimum standards.

4 164. On June 4, 2024, the United States Environmental Protection Agency
5 issued another notice of violation, this time finding Defendants violated multiple
6 provisions of the Clean Air Act, including the New Source Performance Standards
7 (“NSPS”) and National Emission Standards for Hazardous Air Pollutants
8 (“NESHAP”) for municipal solid waste landfills, the NSPS and NESHAP General
9 Provisions, as well as conditions in the Landfill’s Title V permit issued by South Coast
10 AQMD.

11 165. On June 6, 2024, the Los Angeles County Department of Public Health
12 acting as the Local Enforcement Agency issued a Compliance Order requiring
13 Defendants to take additional mitigation measures to address the Subsurface Reaction
14 and its effects.

15 166. On June 27, the Water Board issued a notice of violation to Defendants
16 for failure to comply with prior orders from the Water Board to take steps to
17 investigate the potential surface and groundwater impacts caused by the “current
18 conditions” at the Landfill.

19 167. On September 11, 2024, Los Angeles Fire Department – Health
20 Hazardous Materials Division issued a Order to Comply and Notice of Violation to
21 the Landfill for failing to report a release or threatened release of a hazardous material
22 to the California Office of Emergency Services (Cal OES) after a truck loaded with
23 leachate was traveling on the asphalt hill directly north of the Main Office and
24 overturned, releasing approximately 20 gallons of leachate and oil to the ground on
25 September 8, 2024.

26 168. Finally, on December 31, 2024, Defendants announced that the Landfill
27 would be “closing active waste disposal operations effective January 1, 2025.”
28

1 Defendants stated that “due to the current regulatory environment, maintaining
2 ongoing operations at Chiquita is no longer economically viable.”

3 **G. Throughout these events, Plaintiffs in surrounding communities**
4 **were harmed.**

5 169. While all of the above events were occurring, Plaintiffs were suffering.
6 The noxious odors and toxic gases emanating from the Landfill made living
7 conditions around the Landfill unbearable.

8 170. The noxious odors and toxic gases caused Plaintiffs, all of whom live in
9 the surrounding towns and neighborhoods, to experience headaches, nosebleeds,
10 respiratory issues, and heart problems, amongst other harms.

11 171. Plaintiffs were forced to remain inside their homes and forego the use of
12 their yards to avoid the noxious odors and attendant health effects.

13 172. Plaintiffs were also forced to keep their doors and windows closed when
14 weather conditions otherwise would not so require, solely to avoid the noxious odors
15 and attendant health effects.

16 173. Plaintiffs also experienced significant distress about the harmful health
17 effects of the noxious odors and toxic gases to which they and their families were
18 exposed. For example, they worried that shorts stints outside to perform necessary
19 tasks—like mowing their lawn—would expose them to toxic chemicals that could
20 have unknown short and long-term health effects. As another example, they worried
21 that allowing their children to play outside or go to school would harm their children’s
22 health in unknown ways. Plaintiffs worried that they were being harmed by toxic
23 chemicals even when the noxious odors were not present. For some Plaintiffs, the
24 persistent, noxious odors and toxic gases, and their unknown effects, occupied their
25 minds on a regular basis, caused daily stress, and, on occasion, significant anxiety.

26 174. Plaintiffs were embarrassed by the odors and reluctant to invite guests to
27 their homes.

28

1 175. The odors decreased the value of Plaintiffs' properties and assets and
2 made it difficult or even impossible for Plaintiffs to move out of the area.

3 176. The Subsurface Reaction and effects described above continue to this
4 day and continue to cause Plaintiffs significant harm on a daily basis.

5 **CAUSES OF ACTION**

6 **FIRST CAUSE OF ACTION**
7 **PRIVATE NUISANCE**

8 177. Plaintiffs restate the allegations set forth in the preceding paragraphs.

9 178. Plaintiffs all own, lease, occupy or control the properties on which they
10 reside, which are all located near the Landfill.

11 179. Noxious odors, pollutants, and air contaminants have entered and
12 continue to enter Plaintiffs' properties.

13 180. These noxious odors, pollutants, and air contaminants originated from
14 the Landfill, specifically from landfill gas and leachate emanating from the
15 Subsurface Reaction at the Landfill.

16 181. At all relevant times, the Landfill was constructed, maintained and/or
17 operated by Defendants.

18 182. Defendants caused the Subsurface Reaction, failed to prevent the
19 Subsurface Reaction, failed to stop the Subsurface reaction, and failed to construct,
20 maintain, repair and operate the Landfill in a manner that would not harm Plaintiffs.

21 183. Defendants have failed to abate the effects of the Subsurface Reaction,
22 which continues to harm Plaintiffs on a daily basis.

23 184. Defendants' actions or failures to act caused (and continue to cause) the
24 noxious odors, pollutants, and air contaminants to enter Plaintiffs' properties.

25 185. The odors, pollutants and air contaminants invading Plaintiffs' properties
26 are harmful to Plaintiffs' health, indecent and/or offensive to the senses, and obstruct
27 the free use of their property so as to substantially interfere with the comfortable
28 enjoyment of life and/or property, including in but not limited to the following ways:

1 causing Plaintiffs to inhale noxious and toxic gases and chemicals, which caused
2 personal injury to them including, but not limited to, headaches, dizziness,
3 nosebleeds, difficulty concentrating, difficulty breathing, heart problems, and other
4 latent health problems; causing Plaintiffs significant distress about the harmful health
5 effects of the noxious and toxic gases and chemicals to which they and their families
6 were exposed; causing Plaintiffs to remain inside their homes and forego the use of
7 their yards; causing Plaintiffs to keep doors and windows closed when weather
8 conditions otherwise would not so require; causing Plaintiffs embarrassment and
9 reluctance to invite guests to their homes; and negatively impacting Plaintiffs' assets'
10 values.

11 186. Defendants' actions or failures to act were (and are) intentional and
12 unreasonable, or unintentional, but negligent, reckless, or abnormally dangerous.

13 187. The noxious odors, pollutants, and air contaminants have—and continue
14 to—substantially interfere with Plaintiffs' use or enjoyment of their properties.

15 188. An ordinary person would reasonably be annoyed or disturbed by
16 Defendants' actions or failures to act and by the noxious odors, pollutants, and air
17 contaminants that have entered—and continue to enter—Plaintiffs' properties.

18 189. As a foreseeable, direct, and proximate result of Defendants' actions or
19 failures to act, Plaintiffs and their families suffered, and continue to suffer, personal
20 injuries, emotional distress, and damage to their property as alleged herein.

21 190. Plaintiffs have never given consent for noxious odors, pollutants, dust,
22 debris, and air contaminants to enter and settle upon their land and property.

23 191. The seriousness of the harm caused by Defendants' actions or failures to
24 act outweighs the public benefit of Defendants' conduct.

25 192. Defendants' substantial and unreasonable interference with Plaintiffs'
26 use, and enjoyment of their property constitutes a private nuisance for which
27 Defendants are liable to Plaintiffs.

1 193. Defendants' actions were, and continue to be, intentional, willful,
2 malicious, oppressive, and made with a conscious disregard for the rights or safety of
3 Plaintiffs.

4 194. Plaintiffs are entitled to compensatory, exemplary, and punitive
5 damages, medical monitoring, injunctive relief, and reasonable attorneys' fees
6 pursuant to California Code of Civil Procedure § 1021.5 and otherwise.

7 195. This private nuisance appears to be a continuing nuisance that may be
8 abated. However, because the Subsurface Reaction is still ongoing and Defendants
9 have been unable to abate its effects, the private nuisance may be a permanent
10 nuisance. Plaintiffs reserve the right to seek all damages caused by the nuisance,
11 whether it proves to be continuing or permanent.

12 **SECOND CAUSE OF ACTION**

13 **A. NEGLIGENCE**

14 196. Plaintiffs restate the allegations set forth in the preceding paragraphs.

15 197. At all relevant times, Defendants owned, operated, managed,
16 maintained, and controlled the Landfill.

17 198. Defendants owed Plaintiffs the duty to exercise due care in the
18 ownership, design, operation, management, supervision, inspection, maintenance,
19 repair, and/or control of the Landfill.

20 199. Defendants further owed a duty to operate the Landfill in compliance
21 with all applicable laws, rules, and regulations.

22 200. On occasions, too numerous to mention, Defendants breached these
23 duties by negligently: constructing, maintaining and/or operating the Landfill, causing
24 the Subsurface Reaction, failing to prevent the Subsurface Reaction, failing to stop
25 the Subsurface reaction, and failing to abate the effects of the Subsurface Reaction.

26 201. Defendants' negligence continues to this day, as Defendants' ongoing
27 negligence has permitted the Subsurface Reaction and its effects to persist.
28

1 202. Defendants' negligence directly and proximately caused noxious odors,
2 pollutants, and air contaminants, emanating from landfill gas and leachate, to invade
3 Plaintiffs' properties and public spaces on occasions too numerous to mention.

4 203. Defendants' negligence directly and proximately caused Plaintiffs to
5 suffer personal injury and damage to their properties as alleged herein, including:
6 causing Plaintiffs to inhale noxious and toxic gases and chemicals, which caused
7 personal injury to them including, but not limited to, headaches, dizziness,
8 nosebleeds, difficulty concentrating, difficulty breathing, heart problems, and other
9 latent health problems; causing Plaintiffs significant distress about the harmful health
10 effects of the noxious and toxic gases and chemicals to which they and their families
11 were exposed; causing Plaintiffs to remain inside their homes and forego the use of
12 their yards; causing Plaintiffs to keep doors and windows closed when weather
13 conditions otherwise would not so require; causing Plaintiffs embarrassment and
14 reluctance to invite guests to their homes; and negatively impacting Plaintiffs' assets'
15 values.

16 204. These harms were reasonably foreseeable by Defendants.

17 205. Defendants' breaches of their duties to Plaintiffs were committed
18 knowingly, maliciously, and with a conscious disregard of the rights or safety of
19 others.

20 206. Plaintiffs are entitled to compensatory, exemplary, and punitive
21 damages, medical monitoring, injunctive relief, and reasonable attorneys' fees
22 pursuant to California Code of Civil Procedure § 1021.5 and otherwise.

23 B. NEGLIGENCE PER SE

24 207. Plaintiffs restate the allegations set forth in the preceding paragraphs.

25 208. Defendants own, operate, manage, maintain, and control the Landfill.

26 209. Defendants owed a duty to operate the Landfill in compliance with all
27 applicable laws, rules, and regulations.

1 210. At all times relevant hereto, South Coast AQMD Rule 402 was in full
2 force and effect. It provides:

3 Rule 402. NUISANCE

4 A person shall not discharge from any source whatsoever such
5 quantities of air contaminants or other material which cause injury,
6 detriment, nuisance, or annoyance to any considerable number of
7 persons or to the public, or which endanger the comfort, repose, health
8 or safety of any such persons or the public, or which cause, or have a
9 natural tendency to cause, injury or damage to business or property.

10 211. At all times relevant hereto, California Health & Safety Code § 41700
11 was in full force and effect. It provides:

12 (a) Except as otherwise provided in Section 41705, a person shall not
13 discharge from any source whatsoever quantities of air contaminants or
14 other material that cause injury, detriment, nuisance, or annoyance to
15 any considerable number of persons or to the public, or that endanger
16 the comfort, repose, health, or safety of any of those persons or the
17 public, or that cause, or have a natural tendency to cause, injury or
18 damage to business or property.

19 212. On occasions too numerous to mention, Defendants violated South Coast
20 AQMD Rule 402 and California Health & Safety Code § 41700 by negligently:
21 constructing, maintaining and/or operating the Landfill, causing the Subsurface
22 Reaction, failing to prevent the Subsurface Reaction, failing to stop the Subsurface
23 reaction, and failing to abate the effects of the Subsurface Reaction.

24 213. On occasions too numerous to mention, Defendants violated South Coast
25 AQMD Rule 402 and California Health & Safety Code § 41700 by discharging
26 noxious odors, pollutants, and air contaminants, and permitting these noxious odors,
27 pollutants, and air contaminants, to invade public spaces and Plaintiffs' properties.
28

1 214. To date, South Coast AQMD has received more than 20,000 complaints
2 from community members regarding the noxious odors emanating from the Landfill
3 and has issued more than 100 notices of violation of South Coast AQMD Rule 402
4 and California Health & Safety Code § 41700 to the Landfill because of these odors.

5 215. Defendants' violations of South Coast AQMD Rule 402 and California
6 Health & Safety Code § 41700 directly and proximately caused Plaintiffs to suffer
7 serious personal injury and damages to their properties as alleged herein.

8 216. South Coast AQMD Rule 402 and California Health & Safety Code
9 § 41700 were adopted to prevent the discharge of noxious odors, pollutants, and air
10 contaminants and the resultant health and property harms, like those suffered by
11 Plaintiffs.

12 217. Plaintiffs were and are among the class of persons that South Coast
13 AQMD Rule 402 and California Health & Safety Code § 41700 were intended to
14 protect.

15 218. Defendants' unnumerable violations of South Coast AQMD Rule 402
16 and California Health & Safety Code § 41700 were committed knowingly,
17 maliciously, and with a conscious disregard of the rights or safety of others.

18 219. Plaintiffs are entitled to compensatory, exemplary, and punitive
19 damages, medical monitoring, injunctive relief, and reasonable attorneys' fees
20 pursuant to California Code of Civil Procedure § 1021.5 and otherwise.

21 **PRAYER FOR RELIEF**

22 Plaintiffs request relief against all Defendants as follows:

- 23 1. Judgment in favor of Plaintiffs and against Defendants on all claims;
24 2. Injunctive relief against Defendants to prevent further harm to Plaintiffs,
25 including provisions for Defendants' remediation of the nuisance, ongoing monitoring
26 of Plaintiffs' property, forfeiture and/or relinquishment of the Landfill's CUP,
27 permanent closure of the Landfill, and implementation of a closure plan;
28

- 1 3. Compensatory and general damages to be proven at trial, to include:
 - 2 (a) Damages for personal injuries;
 - 3 (b) Damages for harm to real and/or personal property, including
 - 4 diminution of property value;
 - 5 (c) Damages for the lost use of or the lost quiet enjoyment of real and/or
 - 6 personal property;
 - 7 (d) Damages for past medical and incidental expenses;
 - 8 (e) Damages for lost wages, earning capacity, business profits or
 - 9 proceeds and/or any related displacement expenses;
 - 10 (f) Damages for the cost of future medical monitoring; and
 - 11 (g) Damages for fear, worry, annoyance, discomfort, disturbance,
 - 12 inconvenience, mental anguish, and emotional distress;
- 13 4. An award of punitive and exemplary damages against Chiquita Canyon
- 14 LLC;³
- 15 5. An award of attorneys' fees, pursuant to California Code of Civil
- 16 Procedure § 1021.5 and any other appropriate source, and all other costs of suit;
- 17 6. An award of pre-judgment and post-interest; and
- 18 7. Any further relief the Court deems just and proper.

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25

26 ³ Plaintiffs reserve the right to amend this pleading to seek punitive and exemplary

27 damages against Chiquita Canyon Inc. and Waste Connections if evidence is found to

28 support such recovery.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial.

Dated: January 3, 2025

Respectfully submitted,

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/s/ Scott H. Sims

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